



JPMorgan Chase & Co.
Legal and Compliance Department
One Chase Manhattan Plaza
New York, NY 10084

Frederic L. Lieberman, Esq.
Vice President and
Assistant General Counsel
[212] 552-1815
[Fax] 552-1630

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MEMO ENDORSED

February 1, 2008

Via facsimile (212) 805-6326

The Honorable Colleen McMahon
United States District Judge
Southern District of New York
United States Courthouse
500 Pearl Street
New York, New York 10007

So right ahead -
Colleen McMahon
2/4/08

Re: Susan Pinsky v. JP Morgan Chase & Co.
(U.S. Dist. Ct., S.D.N.Y., 07 Civ. 3328 (CM) (HP))

Your Honor:

The JPMorgan Chase Legal and Compliance Department represents JPMorgan Chase Bank, N.A. in the above-entitled action. I write to request the Court's guidance regarding Defendant's intent to withdraw its pending motion for summary judgment and to file an amended motion for summary judgment.

On September 20, 2007, Defendant JPMorgan Chase Bank, N.A. served and filed a motion for summary judgment solely on the ground that Plaintiff's claims were barred by a release she had given to Defendant. At the same time, Defendant also served and filed a motion for a stay of discovery pending determination of the motion for summary judgment. On September 24, 2007, the Court denied Defendant's motion for a stay of discovery. Accordingly, the parties have been conducting discovery since September 24, 2007, including interrogatories, document production, and depositions.

On October 4, 2007, Plaintiff served and filed Declarations asserting that she required discovery in order before she would be able to respond to Defendant's motion for summary judgment. Defendant then served and filed papers disputing that assertion. The Court has not rendered a decision regarding Defendant's motion as of this date.

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Inasmuch as the parties have engaged in full discovery since the time when Defendant filed its motion for summary judgment, limited to the release issue, Defendant is prepared to serve and file an amended motion for summary judgment, addressing the merits of the asserted claims and defenses, as well as the release issue. We believe that the proper procedure to do so would be for Defendant to withdraw its motion for summary judgment, as served and filed on September 20, 2007, without prejudice to the service and filing of a motion for summary judgment based on any applicable grounds within the time permitted by the Consent Scheduling Order in this action, *i.e.*, February 29, 2008. I have discussed this issue with Plaintiff's attorney and he has advised me that Plaintiff consents to Defendant's proposal.

Accordingly, Defendant respectfully requests that it be permitted to withdraw its pending motion for summary judgment and to file an amended motion for summary judgment no later than February 29, 2008. Should the Court desire, the parties are available for a conference at the Court's convenience (although Plaintiff's counsel will not be available during the week of February 18, 2008).

Respectfully,

A handwritten signature in black ink, appearing to read 'A. Z. Schwartz', with a long horizontal flourish extending to the right.

FLL

cc: Arthur Z. Schwartz, Esq. (via facsimile)